

Senate Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 57

SENATE BILL 1125

AN ACT

AMENDING SECTIONS 33-1256 AND 33-1807, ARIZONA REVISED STATUTES; RELATING TO
CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 33-1256, Arizona Revised Statutes, is amended to read:

33-1256. Lien for assessments; priority; mechanics' and materialmen's liens

A. The association has a lien on a unit for any assessment levied against that unit or monetary penalties imposed against its unit owner from the time the assessment or penalty becomes due. The association's lien may be foreclosed in the same manner as a mortgage on real estate. Unless the declaration otherwise provides, fees, charges, late charges, monetary penalties and interest charged pursuant to section 33-1242, ~~subsection A~~, paragraphs 10, 11 and 12 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment of the assessment becomes due.

B. A lien under this section is prior to all other liens, interests and encumbrances on a unit except:

1. Liens and encumbrances recorded before the recordation of the declaration.

2. A recorded first mortgage on the unit, A seller's interest in a first contract for sale pursuant to chapter 6, article 3 of this title on the unit recorded prior to the lien arising pursuant to subsection A of this section or a recorded first deed of trust on the unit.

3. Liens for real estate taxes and other governmental assessments or charges against the unit.

C. Subsection B of this section does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the association. The lien under this section is not subject to the provisions of chapter 8 of this title.

D. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

E. Recording of the declaration constitutes record notice and perfection of the lien. Further recordation of any claim of lien for assessment under this section is not required.

F. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessments becomes due.

G. This section does not prohibit actions to recover sums for which subsection A of this section creates a lien or does not prohibit an association from taking a deed in lieu of foreclosure.

H. A judgment or decree in any action brought under this section shall include costs and reasonable attorney fees for the prevailing party.

I. The association on written request shall furnish to a lienholder, ESCROW AGENT, unit owner or person designated by a unit owner a statement

1 setting forth the amount of unpaid assessments against the unit. The
2 statement shall be furnished within fifteen days after receipt of the request
3 and the statement is binding on the association, the board of directors and
4 every unit owner if the statement is requested by an escrow agency that is
5 licensed pursuant to title 6, chapter 7. Failure to provide the statement
6 to the escrow agent within the time provided for in this subsection shall
7 extinguish any lien for any unpaid assessment then due.

8 J. THE ASSOCIATION SHALL RECORD IN THE OFFICE OF THE COUNTY RECORDER
9 IN THE COUNTY IN WHICH THE CONDOMINIUM IS LOCATED A NOTICE STATING THE NAME
10 OF THE ASSOCIATION OR DESIGNATED AGENT OR MANAGEMENT COMPANY FOR THE
11 ASSOCIATION, THE ADDRESS FOR THE ASSOCIATION AND THE TELEPHONE NUMBER OF THE
12 ASSOCIATION OR ITS DESIGNATED AGENT OR MANAGEMENT COMPANY. THE NOTICE SHALL
13 INCLUDE THE NAME OF THE CONDOMINIUM COMMUNITY, THE DATE OF THE RECORDING AND
14 THE RECORDED INSTRUMENT NUMBER OR BOOK AND PAGE FOR THE MAIN DOCUMENT THAT
15 CONSTITUTES THE DECLARATION. IF AN ASSOCIATION'S ADDRESS, DESIGNATED AGENT
16 OR MANAGEMENT COMPANY CHANGES, THE ASSOCIATION SHALL AMEND ITS NOTICE OR
17 RECORD A NEW NOTICE WITHIN NINETY DAYS AFTER THE CHANGE.

18 Sec. 2. Section 33-1807, Arizona Revised Statutes, is amended to read:

19 33-1807. Lien for assessments; priority; mechanics' and
20 materialmen's liens

21 A. The association has a lien on a unit for any assessment levied
22 against that unit or monetary penalties imposed against its unit owner from
23 the time the assessment or penalty becomes due. The association's lien may
24 be foreclosed in the same manner as a mortgage on real estate. Unless the
25 declaration otherwise provides, fees, charges, late charges, monetary
26 penalties and interest charged pursuant to section 33-1803 are enforceable
27 as assessments under this section. If an assessment is payable in
28 installments, the full amount of the assessment is a lien from the time the
29 first installment of the assessment becomes due.

30 B. A lien under this section is prior to all other liens, interests
31 and encumbrances on a unit except:

32 1. Liens and encumbrances recorded before the recordation of the
33 declaration.

34 2. A recorded first mortgage on the unit, A seller's interest in a
35 first contract for sale pursuant to chapter 6, article 3 of this title on the
36 unit recorded prior to the lien arising pursuant to subsection A of this
37 section or a recorded first deed of trust on the unit.

38 3. Liens for real estate taxes and other governmental assessments or
39 charges against the unit.

40 C. Subsection B of this section does not affect the priority of
41 mechanics' or materialmen's liens or the priority of liens for other
42 assessments made by the association. The lien under this section is not
43 subject to chapter 8 of this title.

1 D. Unless the declaration otherwise provides, if two or more
2 associations have liens for assessments created at any time on the same real
3 estate those liens have equal priority.

4 E. Recording of the declaration constitutes record notice and
5 perfection of the lien. Further recordation of any claim of lien for
6 assessment under this section is not required.

7 F. A lien for an unpaid assessment is extinguished unless proceedings
8 to enforce the lien are instituted within three years after the full amount
9 of the assessment becomes due.

10 G. This section does not prohibit:

11 1. Actions to recover amounts for which subsection A of this section
12 creates a lien.

13 2. An association from taking a deed in lieu of foreclosure.

14 H. A judgment or decree in any action brought under this section shall
15 include costs and reasonable attorney fees for the prevailing party.

16 I. On written request, the association shall furnish to a lienholder,
17 ESCROW AGENT, unit owner or person designated by a unit owner a statement
18 setting forth the amount of any unpaid assessment against the unit. The
19 association shall furnish the statement within fifteen days after receipt of
20 the request, and the statement is binding on the association, the board of
21 directors and every unit owner if the statement is requested by an escrow
22 agency that is licensed pursuant to title 6, chapter 7. Failure to provide
23 the statement to the escrow agent within the time provided for in this
24 subsection shall extinguish any lien for any unpaid assessment then due.

25 J. THE ASSOCIATION SHALL RECORD IN THE OFFICE OF THE COUNTY RECORDER
26 IN THE COUNTY IN WHICH THE PLANNED COMMUNITY IS LOCATED A NOTICE STATING THE
27 NAME OF THE ASSOCIATION OR DESIGNATED AGENT OR MANAGEMENT COMPANY FOR THE
28 ASSOCIATION, THE ADDRESS FOR THE ASSOCIATION AND THE TELEPHONE NUMBER OF THE
29 ASSOCIATION OR ITS DESIGNATED AGENT OR MANAGEMENT COMPANY. THE NOTICE SHALL
30 INCLUDE THE NAME OF THE PLANNED COMMUNITY, THE DATE OF THE RECORDING AND THE
31 RECORDED INSTRUMENT NUMBER OR BOOK AND PAGE FOR THE MAIN DOCUMENT THAT
32 CONSTITUTES THE DECLARATION. IF AN ASSOCIATION'S ADDRESS, DESIGNATED AGENT
33 OR MANAGEMENT COMPANY CHANGES, THE ASSOCIATION SHALL AMEND ITS NOTICE OR
34 RECORD A NEW NOTICE WITHIN NINETY DAYS AFTER THE CHANGE.

APPROVED BY THE GOVERNOR APRIL 7, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 7, 2004.